



**RESPONSE**

Debtors' seek to modify their plan to reduce their plan payment from \$2,527.00 per month to \$276.92 per week (\$1,199.98 per month) due to Mrs. Deskins' decreased business income; however, Debtors' monthly gross income appears to have increased and the only significant changes to Debtors' budget are increased expenses of \$1,368.69, for which the Motion provides no explanation.

Debtors are above-median and sought *Lanning* relief at confirmation. Their projected disposable income per the means test was \$175,954.80; however, their confirmed plan provided for payment to non-priority unsecured creditors in the amount of \$101,342.77. ECF No. 32 at 3. Debtors' proposed modified plan proposes to pay non-priority unsecured creditors \$0.00. ECF No. 49 at 3.

Debtors' prior budget listed Mrs. Deskins' monthly net business income at \$2,908.53 per month. ECF No. 31 at 2. Debtors' current budget lists Mrs. Deskins' monthly net business income at \$2,504.53. ECF No. 48 at 2. While the stated amount monthly business income has decreased by \$404.00 per month, Trustee would like to verify Mrs. Deskins' self-prepared profit and loss statement by reviewing Debtors' bank statements and evidence claimed business expenses.

Debtors' monthly gross income has actually increased from \$7,104.73 to \$7,791.18 due to Mr. Deskins' monthly gross income increasing from \$6,555.28 (ECF No. 31 at 1) to \$7,696.92 (ECF No. 48 at 1). The increase reflected in the budget may also be more than his actual increase as Debtors based his income on a nine month average, while the paystubs provided only show year to date income for eight and a half months. Once corrected, Mr.

1 Deskins' average monthly net income through September 14, 2019 should be \$8,053.82  
2 (\$68,457.45 ÷ 8.5 = \$8,053.82), not \$7,696.92.

3 Debtors' expenses have increased in almost every category without explanation or  
4 evidence. Debtors' claimed transportation expense has doubled from \$400.00 to \$800.00.  
5 Home maintenance has also doubled. Utility expenses have increased from \$225.00 per month  
6 to just under \$1,000.00 per month. Food has increased by \$250.00 per month. Clothing has  
7 increased by \$250.00 per month. Debtors' household size has not changed. No change in  
8 circumstances or evidence regarding expenses was referenced in Debtors' Motion or declaration  
9 in support thereof. Debtors are above median and are not permitted to simply absorb all of their  
10 increased income into their budget to the detriment of their creditors.

11 Debtors have not experienced the change in circumstances they claimed in their Motion,  
12 therefore, there is no basis to modify their current plan.

13 **WHEREFORE**, Trustee requests that the Motion be denied.

14 **DATED** this 30th day of October, 2019.

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17 /s/ Mathew S. LaCroix

18 Mathew S. LaCroix, WSBA# 41847 for  
19 Michael G. Malaier, Chapter 13 Trustee  
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**CERTIFICATE OF MAILING**

I certify under penalty of perjury under the laws of the United States I caused to be mailed via first class mail a true and correct copy of Trustee's Response to the following:

Bank of America, N.A.  
P.O. Box 31785  
Tampa, FL 33631

Citibank, N.A.  
701 East 60<sup>th</sup> Street North  
Sioux Falls, SD 57117

Specialized Loan Servicing  
8742 Lucent Blvd., Suite 300  
Highlands Ranch, CO 80129

Brian Douglas Deskins  
Cheryl Ann Deskins  
5016 – 64<sup>th</sup> Ave. W.  
University Place, WA 98467

The following parties received notice via ECF:

Ellen Ann Brown  
Lance E. Olsen  
Michael S. Scott  
U.S. Trustee

Executed at Tacoma, Washington this 30<sup>th</sup> day of October, 2019.

/s/ Tracy Maher  
Tracy Maher  
Motion Coordinator for  
Chapter 13 Trustee